

§ 785.5

hearing to BIS within 15 business days from the date of service of the NOVA. If the respondent requests a hearing, the respondent must answer the NOVA within 30 calendar days from the date of the request for hearing. The request for a hearing and the respondent's answer to the NOVA must be filed with the Administrative Law Judge (ALJ), along with a copy of the NOVA, and served on the Office of Chief Counsel, and any other address(es) specified in the NOVA, in accordance with § 785.6 of the APR.

(b) *Content of respondent's answer.* The respondent's answer must be responsive to the NOVA and must fully set forth the nature of the respondent's defense(s). The answer must specifically admit or deny each separate allegation in the NOVA; if the respondent is without knowledge, the answer will so state and this will serve as a denial. Failure to deny or controvert a particular allegation will be deemed to be an admission of that allegation. The answer must also set forth any additional or new matter that the respondent contends will support a defense or claim of mitigation. Any defense or partial defense not specifically set forth in the answer shall be deemed to be waived, and evidence supporting that defense or partial defense may be refused, except for good cause shown.

(c) *English required.* The request for hearing, the answer to the NOVA, and all other papers and documentary evidence must be submitted in English.

(d) *Waiver.* The failure of the respondent to file a request for a hearing and an answer within the times prescribed in paragraph (a) of this section constitutes a waiver of the respondent's right to appear and contest the allegations set forth in the NOVA. If no hearing is requested and no answer is provided, a final order will be signed by the Secretary of Commerce, or by a designated United States Government official, and will constitute final agency action in the case.

§ 785.5 Representation.

An individual respondent may appear, in person, or be represented by a duly authorized officer or employee. A partner may appear on behalf of a partnership, or a duly authorized officer or

15 CFR Ch. VII (1-1-14 Edition)

employee of a corporation may appear on behalf of the corporation. If a respondent is represented by counsel, counsel shall be a member in good standing of the bar of any State, Commonwealth or Territory of the United States, or of the District of Columbia, or be licensed to practice law in the country in which counsel resides, if not the United States. The U.S. Government will be represented by the Office of Chief Counsel. A respondent personally, or through counsel or other representative who has the power of attorney to represent the respondent, shall file a notice of appearance with the ALJ, or, in cases where settlement negotiations occur before any filing with the ALJ, with the Office of Chief Counsel.

§ 785.6 Filing and service of papers other than the Notice of Violation and Assessment (NOVA).

(a) *Filing.* All papers to be filed with the ALJ shall be addressed to "Additional Protocol Administrative Enforcement Proceedings," at the address set forth in the NOVA, or such other place as the ALJ may designate. Filing by United States certified mail, by express or equivalent parcel delivery service, via facsimile, or by hand delivery is acceptable. Filing from a foreign country shall be by airmail, via facsimile, or by express or equivalent parcel delivery service. A copy of each paper filed shall be simultaneously served on all parties.

(b) *Service.* Service shall be made by United States certified mail, by express or equivalent parcel delivery service, via facsimile, or by hand delivery of one copy of each paper to each party in the proceeding. Service on the government party in all proceedings shall be addressed to Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room H-3839, Washington, DC 20230, or sent via facsimile to (202) 482-0085. Service on a respondent shall be to the address to which the NOVA was sent, or to such other address as the respondent